

IC 13-15-6

Chapter 6. Appeal of Agency Determination to Issue or Deny Permit

IC 13-15-6-1

Objections; request for adjudicatory hearing

Sec. 1. (a) Not later than fifteen (15) days after being served the notice provided by the commissioner under IC 13-15-5-3:

- (1) the permit applicant; or
 - (2) any other person aggrieved by the commissioner's action;
- may appeal the commissioner's action to the office of environmental adjudication and request that an environmental law judge hold an adjudicatory hearing concerning the action under IC 4-21.5-3 and IC 4-21.5-7.

(b) Notwithstanding subsection (a) and IC 4-21.5-3-7(a)(3), a person may file an appeal of the commissioner's action in issuing an initial permit under the operating permit program under 42 U.S.C. 7661 through 7661f not later than thirty (30) days after the date the person received the notice provided under IC 13-15-5-3, for a permit issued after April 30, 1999.

As added by P.L.1-1996, SEC.5. Amended by P.L.25-1997, SEC.5; P.L.90-1998, SEC.13; P.L.224-1999, SEC.5.

IC 13-15-6-2

Contents of request

Sec. 2. A written request for an adjudicatory hearing under section 1 of this chapter must do the following:

- (1) State the name and address of the person making the request.
- (2) Identify the interest of the person making the request.
- (3) Identify any persons represented by the person making the request.
- (4) State with particularity the reasons for the request.
- (5) State with particularity the issues proposed for consideration at the hearing.
- (6) Identify the permit terms and conditions that, in the judgment of the person making the request, would be appropriate in the case in question to satisfy the requirements of the law governing permits of the type granted or denied by the commissioner's action.

As added by P.L.1-1996, SEC.5.

IC 13-15-6-3

Hearings

Sec. 3. (a) Not later than thirty (30) days after being served a request for an adjudicatory hearing, an environmental law judge under IC 4-21.5-7 shall, if the environmental law judge determines that:

- (1) the request was properly submitted; and
- (2) the request establishes a jurisdictional basis for a hearing;

assign the matter for a hearing.

(b) Upon assigning the matter for a hearing, an environmental law judge may stay the force and effect of the following:

(1) A contested permit provision.

(2) A permit term or condition the environmental law judge considers inseverable from a contested permit provision.

(c) After a final hearing under this section, a final order of an environmental law judge on a permit application is subject to review under IC 4-21.5-5.

As added by P.L.1-1996, SEC.5. Amended by P.L.25-1997, SEC.6; P.L.90-1998, SEC.14.

IC 13-15-6-4

Final agency action

Sec. 4. (a) This section applies to an application for a permit or for the renewal of a permit under the operating permit program under 42 U.S.C. 7661 through 7661f.

(b) Failure of the commissioner to act on an application in accordance with the times provided in Section 503 of the federal Clean Air Act Amendments of 1990 (42 U.S.C. 7661b) or Title IV of the federal Clean Air Act Amendments of 1990 (42 U.S.C. 7651 to 7651o) shall be treated as a final agency action solely for the purposes of obtaining judicial review in state court of an action brought by:

(1) any person that participated in the public comment process;
or

(2) any person entitled to judicial review of the final agency action under IC 4-21.5-5;

to require that an action be taken by the commissioner on the permit application without additional delay.

As added by P.L.1-1996, SEC.5.

IC 13-15-6-5

Judicial review

Sec. 5. (a) This section applies to an application for a permit or for the renewal of a permit under the operating permit program under 42 U.S.C. 7661 through 7661f.

(b) Notwithstanding IC 4-21.5-5-5, a person may file a petition for judicial review of final agency action on an application for a permit, a permit renewal, or a permit revision more than thirty (30) days after the person is served notice of the final agency action if the following conditions exist:

(1) The petition is based on new grounds that arise more than thirty (30) days after the person is served the notice.

(2) The petition is filed not more than thirty (30) days after the new grounds arise.

(3) The new grounds:

(A) are based on new information that was not available during the review period; and

(B) could not by due diligence have been discovered and

produced within the time required for the proceedings under this section.

As added by P.L.1-1996, SEC.5. Amended by P.L.90-1998, SEC.15.

IC 13-15-6-6

Applicability of judicial review to revision or modification of permit

Sec. 6. The air pollution control board may adopt rules under IC 4-22-2 to provide that the opportunity for judicial review allowed under section 4 or 5 of this chapter applies to the revision or modification of a permit or license under the operating permit program under 42 U.S.C. 7661 through 7661f.

As added by P.L.1-1996, SEC.5.

IC 13-15-6-7

Computation of time

Sec. 7. (a) In computing a period of time under this chapter, the day of the act, event, or default from which the designated period of time begins to run is not included. The last day of the computed period is to be included unless it is a:

- (1) Saturday;
- (2) Sunday;
- (3) legal holiday under a state statute; or
- (4) day that the office in which the act is to be done is closed during regular business hours.

(b) A period runs until the end of the next day after a day described in subsections (a)(1) through (a)(4).

(c) A period of time under this chapter that commences when a person is served with a paper commences with respect to a particular person on the earlier of the date that:

- (1) the person is personally served with the notice; or
- (2) a notice for the person is deposited in the United States mail.

(d) If a notice is served through the United States mail, three (3) days must be added to a period that commences upon service of that notice.

As added by P.L.90-1998, SEC.16.